



# PUBLIC NOTICE

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DA 02-3588

## WIRELINE COMPETITION BUREAU INITIATES PROCEEDING TO CONSIDER THE COLORADO PUBLIC UTILITIES COMMISSION PETITION TO REDEFINE THE SERVICE AREA OF DELTA COUNTY TELE-COMM, INC. IN THE STATE OF COLORADO

CC Docket No. 96-45

Release Date: December 24, 2002

The Wireline Competition Bureau (Bureau) provides notice that it is initiating a proceeding to consider the petition filed by the Colorado Public Utilities Commission (Colorado Commission), pursuant to section 54.207 of the Commission's rules, requesting the Commission's agreement with the Colorado Commission's proposed "service area" definition for areas served by Delta County Tele-Comm, Inc. (Delta County) within Colorado.<sup>1</sup> The Colorado Commission proposes to define Delta County's service area as an area different from the study area of Delta County for the purpose of determining federal universal service obligations and support mechanisms.<sup>2</sup> Specifically, the Colorado Commission proposes to designate each individual wire center of Delta County as a separate service area.<sup>3</sup> The Bureau recently released a Public Notice seeking comment on the Colorado Commission's petition.<sup>4</sup>

Commission Rules: For areas served by a rural telephone company, section 214(e)(5) of the Communications Act of 1934, as amended (the Act), provides that the company's service area will be its study area "unless and until the Commission and the States, after taking into account the recommendations of a Federal-State Joint Board instituted under section 410(c), establish a different definition of service area for such company." Section 54.207 of the Commission's rules and the *Universal Service Order* set forth the procedures for consideration of petitions seeking to designate

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<sup>1</sup> Petition by the Colorado Public Utilities Commission, Pursuant to 47 C.F.R. § 54.207(c), for Commission Agreement in Redefining the Service Area of Delta County Tele-Comm, Inc., a Rural Telephone Company, CC Docket No. 96-45, filed on August 12, 2002 (Petition).

<sup>2</sup> See generally Petition.

<sup>3</sup> See Petition at 3.

<sup>4</sup> See *Colorado Public Utilities Commission Petitions to Redefine the Service Area of Delta County Tele-Comm, Inc. in the State of Colorado*, Public Notice, CC Docket No. 96-45, DA 02-2383 (Wireline Comp. Bur. rel. Sept. 25, 2002).

<sup>5</sup> See 47 U.S.C. § 214(e)(5).

service areas for rural telephone companies that are different from such companies' study areas.<sup>6</sup>

Section 54.207(c)(3) of the Commission's rules provides that the Commission may initiate a proceeding to consider a petition to redefine the service area of a rural telephone company within ninety days of the release date of a Public Notice.' If the Commission initiates a proceeding to consider the petition, the proposed definition shall not take effect until both the state commission and the Commission agree upon the definition of a rural service area, in accordance with section 214(e)(5) of the Act.<sup>8</sup> Under section 54.207(e) of the Commission's rules, the Commission delegates its authority under section 54.207(c) to the Chief of the Wireline Competition Bureau.'

Pursuant to section 1.1206 of the Commission's rules, 47 C.F.R. § 1.1206, this proceeding will be conducted as a permit-but-disclose proceeding in which ex parte communications are permitted subject to disclosure. For further information contact Anita Cheng, Telecommunications Access Policy Division, Wireline Competition Bureau at (202) 418-7400, TTY (202) 418-0484.

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<sup>6</sup> See 47 C.F.R. § 54.207(c). Specifically, section 54.207(c)(1) provides that such a petition shall contain: (i) the definition proposed by the state commission; and (ii) the state commission's ruling or other official statement presenting the state commission's reason for adopting its proposed definition, including an analysis that takes into account the recommendations of any Federal-State Joint Board convened to provide recommendations with respect to the definition of a service area served by a rural telephone company. *See also Federal-State Joint Board on Universal Service*, Report and Order, CC Docket No. 96-45, 12 FCC Rcd 8776, 8881, para. 188 (1997) (*Universal Service Order*) (subseq. history omitted).

<sup>7</sup> 47 C.F.R. § 54.207(c)(3). We note that **if** the Commission did not act **on** the Petition within 90 days of the release of the Public Notice, the definition proposed by the Colorado Commission would be deemed approved by the Commission and would take effect in accordance with state procedures. 47 C.F.R. § 54.207(c)(3)(ii).

<sup>8</sup> See 47 C.F.R. § 54.207(c)(3)(i); 47 U.S.C. § 214(e)(5).

<sup>9</sup> 47 C.F.R. § 54.207(e).